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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,897	06/24/2003	Kurt Haggstrom	M-1111-CIP (1502-96 PCT C	2190
55825	7590	07/31/2006	EXAMINER	
CARTER, DELUCA, FARRELL & SCHMIDT, LLP 445 BROAD HOLLOW ROAD SUITE 225 MELVILLE, NY 11704			STIGELL, THEODORE J	
			ART UNIT	PAPER NUMBER
			3763	

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/602,897	<b>Applicant(s)</b> HAGGSTROM, KURT	
	<b>Examiner</b> Theodore J. Stigell	<b>Art Unit</b> 3763	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 15 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 11, 14 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-10,12-13,15, and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Decant Jr. (6,786,884).

In regards to claim 1, Decant Jr. discloses a catheter comprising an elongated tubular body (10) extending to a distal end thereof, the tubular body having a first lumen (12) and a second lumen (14), a septum (16,230) disposed therebetween, the tubular body including a first wall that defines the first lumen and a second wall that defines the second lumen, a portion of the septum extending distally beyond the first lumen and the second lumen wherein the first wall includes a first wall extension (210) that extends in a spiral configuration from the first lumen and is spaced apart from a portion of the septum.

In regards to claims 2-4, Decant Jr. discloses a catheter that includes all of the limitations as recited in claim 1 wherein the second wall includes a second wall extension (220) that extends in a spiral configuration from the second lumen and is spaced apart from the portion of the septum, and the first and second wall extensions

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including a planar end surface (defined as the slanted edges of elements 210,220) that forms a boundary about the extensions and defines the spiral configuration.

In regards to claims 5-7, Decant Jr. discloses a catheter that includes all of the limitations as recited in claim 1 wherein the first wall extension and the second wall extension define first and second symmetrical cavities (212,222) and the first wall extension includes a base that defines an inlet opening of the first cavity, the base being disposed proximal to fluid flow being expelled from the second cavity.

In regards to claim 8, Decant Jr. discloses a catheter that includes all of the limitations including an elongated tubular body, a septum with an extension (230), first and second lumens, and first and second wall extensions that extend in a spiral configuration wherein the first and second wall extensions define a concave surface facing the septum extension.

In regards to claims 9-10 and 12, Decant Jr. discloses a catheter that includes all of the limitations as recited in claim 8 wherein the first and second wall extensions each include planar end surfaces that form boundaries about their respective concave surface and define the spiral configuration, the wall extensions defining symmetrical cavities, the wall extensions being symmetrically disposed about the septum extension.

In regards to claims 13,15 and 17-19, Decant Jr. discloses a catheter that includes all of the limitations as recited. See the rejection above.

### **Allowable Subject Matter**

Claims 11, 14, and 16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed 5/9/2006 have been fully considered but they are not persuasive. In response to the Applicant's argument that DeCant does not disclose a first wall extension that extends in a "spiral configuration", the Examiner respectfully disagrees. The Applicant asserts that DeCant discloses a U-shaped extension, which does not meet the limitations of a "spiral". The Applicant defines "spiral" as "a curve on a plane that winds around a fixed center point at a continuously increasing or decreasing distance from the point" or "a three dimensional curve that turns around an axis at a constant or continuously varying distance while moving parallel to the axis". The Examiner maintains that the extension (210) extends in a U-shape when looked at in two dimensions as is seen in Figure 3, but extends, at least partially, in a spiral configuration in three dimensions.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theodore J. Stigell whose telephone number is 571-272-8759. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Theodore J. Stigell

  
NICHOLAS D. LUCCHESI  
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